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Security Council

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Note verbale dated 26 August 2008 from the Permanent Mission of Costa Rica to the United Nations addressed to the Secretary-General

The Permanent Mission of Costa Rica to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to transmit herewith a note dated 22 August 2008, which refers to the matter relating to the oil-for-food programme that is under consideration by the Security Council (see annex).

In this regard, the Permanent Mission of Costa Rica, on instructions from its Government, would like to request that the present note and its annex be circulated as a document of the Security Council.

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Annex to the note verbale dated 26 August 2008 from the Permanent Mission of Costa Rica to the United Nations addressed to the Secretary-General

I hereby present my compliments to you and have the honour to refer to the matter relating to the oil-for-food programme that is under consideration by the Security Council.

The Government of the Republic of Costa Rica has paid careful attention to this matter since 2005; the actions of Costa Rica in this regard are set out in the attached document (see enclosure). In this context, the letter dated 25 July 2008 from the Permanent Mission of Costa Rica to the United Nations was circulated as a document of the Security Council on 4 August 2008. In that letter, the President of the Security Council was requested to coordinate with you in order to ensure that the possible closure of the programme would not expose the Organization to questions on the financial management of the programme.

We are pleased to know that the Working Group referred to in document S/2008/492 shares our view, as set out in paragraph 17 of the attachment to that document, that "payment under the programme pursuant to the relevant letters of credit requires the presentation of relevant authentication documents. Therefore, payment by the Secretary-General in the absence of documentation, namely the confirmations of arrival, would be contrary to that framework and hence would expose the Organization, its representatives and agents to claims".

In that connection, we would like to reiterate, as a matter of urgency, our request that you send us, through official channels, the list of all natural and legal persons with outstanding invoices from the oil-for-food programme. This is especially important for the purpose of giving objective and appropriate consideration to the decisions to be taken within the framework of the Security Council's discussions regarding the proposals contained in document S/2008/492.

Furthermore, given that the reports of the International Advisory and Monitoring Board of 14 December 2004, 18 December 2006 and 29 February 2008 revealed significant shortcomings and weaknesses in the administration of the Development Fund for Iraq, we are concerned that the proposal contained in paragraph 18 (c) of the attachment to document S/2008/492 considers the possibility of transferring to the Development Fund for Iraq the funds in the escrow account corresponding to outstanding claims.

(*Signed*) Bruno **Stagno**
Minister for Foreign Affairs and Worship of Costa Rica

Enclosure

Non-paper: oil-for-food programme

Background

21 April 2004: adoption of resolution 1538 (2004)

3 February 2005: online publication of the first interim report

29 March 2005: online publication of the second interim report

8 August 2005: online publication of the third interim report

7 September 2005: online publication of the report on the management of the oil-for-food programme

27 October 2005: online publication of the report on the manipulation of the oil-for-food programme. Following a legally inappropriate announcement in the context of the General Assembly, Costa Rica requested clarification from the Secretariat; the response received was unsatisfactory. Costa Rica also officially requested the Secretariat to distribute past reports to all Member States. Meetings were later held on the matter with the Deputy Secretary-General, Louise Fréchette, Under-Secretary-General Christopher Burnham and the Chef de Cabinet of the Secretary-General, Mark Malloch-Brown.

9 November 2005: meeting with Under-Secretary-General Chen to reiterate Costa Rica's request for the official distribution by the Secretariat of past reports to all Member States. The Secretariat later provided a copy of the report of 7 September 2005 (report on the management of the oil-for-food programme) to each interested Member State.

17 November 2005: transmittal of a letter to the Secretary-General (A/60/235) requesting, in accordance with rule 15 of the rules of procedure of the General Assembly, the inclusion of an additional item in the agenda of the sixtieth session of the General Assembly, entitled "Follow-up to the recommendations of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme". The letter included, in an annex, an explanatory memorandum setting out the reasons for the request, and also stated that the delegation of Costa Rica wished to participate in any meeting of the General Committee at which the request was discussed, in accordance with rule 43 of the rules of procedure of the General Assembly.

13 December 2005: General Committee meeting. Costa Rica formally requested the inclusion of an additional agenda item entitled "Follow-up to the recommendations of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme". The request was approved by the General Committee.

Rationale

This request is submitted by the Government of Costa Rica on the basis of detailed and exhaustive monitoring of the work of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme since its establishment, endorsed by the Security Council in resolution 1538 (2004). Costa Rica's efforts in this regard can be illustrated by the following facts.

1. On 31 January 2005, during informal consultations of the General Assembly on the report of the High-level Panel on Threats, Challenges and Change, Costa Rica for the first time referred to the problems stemming from the mismanagement of the oil-for-food programme, stating the following: "One of the issues not addressed by the Panel, and which concerns the very basis of the credibility of the United Nations, is the flaws in the internal monitoring and oversight system and the unwillingness to deal with problems in a prompt and determined manner. The allegations concerning the oil-for-food programme, as well as cases of sexual exploitation, abuse and corruption of minors by members of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), reveal serious shortcomings in the system in terms of internal monitoring and inspection. Although both situations are currently under examination, as indeed they should be, by the Independent Inquiry Committee (IIC) and the Office of Internal Oversight Services (OIOS), these investigations were undertaken belatedly, years after evidence of crimes and irregularities had begun accumulating."

2. On 22 February 2005, two weeks after the publication of the Committee's first interim report, Costa Rica reiterated the position it had stated not long before, during informal consultations prior to the publication of the Secretary-General's report (A/59/2005).

3. On 8 April 2005, one week after the publication of the Committee's second interim report, Costa Rica once again raised the matter under items 45 and 55 of the agenda of the General Assembly, stating:

> "During the informal consultations on the report of the High-level Panel, we expressed surprise at the report's failure to address internal threats and challenges as immediate, troubling and damaging as the glaring failures in the oversight and management of the oil-for-food programme and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). We strongly urge the Secretary-General to exorcize those demons openly and resolutely. We welcome the fact that the Secretary-General has addressed both issues indirectly, but we also believe that neither will be properly resolved if we continue to understate the truth.
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> "In paragraph 113 of the report, in what we believe to be a true understatement, the Secretary-General refers to 'recent allegations of misconduct by United Nations administrators and peacekeepers'. On oil-for-food, the Independent Inquiry Committee's findings include conflict of interest, pre-emption and frustration of competitive bidding processes for political reasons, non-documentation of decision-making processes, non-verification of references provided by bidding parties and other systematic violations of formal procurement and management rules and procedures. Although a number of internal reforms are currently under way to increase transparency and accountability in the area of administration, none of them seem to be sufficiently important to merit inclusion in the report. We respectfully disagree with such omissions. We believe that now that the repeated and knowing short-circuiting and violation of formal rules and procedures has been documented, correcting the failings of the system is central to the credibility of the United Nations."

4. On 16 September 2005, five weeks after the publication of the Committee's third interim report and one week after the publication of the report on the

management of the oil-for-food programme, the then Vice-President of Costa Rica, Ms. Lineth Saborío Chavarri, in her statement at the 2005 World Summit, said the following: "Regarding management, and with a view to ensuring the unique legitimacy of this Organization, we consider it indispensable to strengthen the Organization's and oversight mechanisms, and we request the General Assembly to consider in depth the recommendations of the Volcker report. We believe it is necessary to face up with absolute transparency to the mismanagement cases and the allegations of corruption that have surfaced with the Organization in recent months."

5. On 27 October 2005, the report on the manipulation of the oil-for-food programme was published and was presented at an informal meeting of the General Assembly, chaired by the Under-Secretary-General for Management. At that meeting, Costa Rica once again raised the importance of informing Member States formally of the matter.

Costa Rica has insisted on the proper follow-up of the recommendations of the Independent Inquiry Committee on the management of the oil-for-food programme on the basis of the following points:

- In the negotiations on the 2005 World Summit Outcome, the Committee's reports and its recommendations were cited on numerous occasions, but there was no mention of them in the outcome document;
- The Committee concluded that the difficulties encountered in terms of administration and internal oversight of the oil-for-food programme were symptomatic of systemic problems in United Nations administration and that the lessons drawn were applicable to the Organization as a whole;
- In the report's conclusion, it was stated that professional disciplines at the United Nations were weak and eroded from its senior levels on down;
- In section XII of volume I, the report contained the following recommendations, which fall within the competence of the General Assembly:

1. Create the position of "Chief Operating Officer" (COO). Recommendation not included in the 2005 World Summit Outcome;
2. Strengthen independence of oversight and auditing. Recommendation included in the 2005 World Summit Outcome and currently under consideration by the General Assembly;
3. Improve coordination and the oversight framework for cross-agency programmes. Recommendation not included in the 2005 World Summit Outcome;
4. Reform and improve management performance. Recommendation included in the 2005 World Summit Outcome and currently under consideration by the General Assembly;
5. Expand conflict-of-interest and financial disclosure requirements. Recommendation included in the 2005 World Summit Outcome and currently under consideration by the General Assembly;
6. Cost recovery. Recommendation not included in the 2005 World Summit Outcome.

As can be seen, a number of the above recommendations are being considered by the General Assembly and, without prejudging the validity or merit of the remaining ones, we consider it of vital importance that Member States be aware of all the recommendations as well as the rationale behind them or the justification provided, with a view to taking balanced decisions on administrative matters within the framework of discussions on United Nations reform.

When the report was presented to the Security Council on 7 September 2005, the Chairman of the Independent Inquiry Committee stressed the need for urgency, stating that "action should be taken by the time the General Assembly completes its meetings in 2006". In light of the importance that Costa Rica attaches to the recommendations of the Committee, and given the official expiry of the Committee's mandate on 31 December 2007, we consider it necessary for the General Assembly, and the Security Council as appropriate, to consider these proposals in order to take the appropriate measures.

It should be noted that the reports of the Independent Inquiry Committee are not currently official United Nations documents; they therefore bear no symbol and are not available in the six official languages.

"Hold" on the closure of the programme

Although Costa Rica has been a non-permanent member of the Security Council since 1 January 2008, we succeeded only very recently in obtaining the list of companies that still have outstanding letters of credit for goods or services provided under the oil-for-food programme. The degree of overlap between the companies on that list and those appearing in tables VII and VIII (actual and projected illicit payments on contracts for humanitarian goods) of the Independent Inquiry Committee's report of 27 October 2005 makes it even more relevant to conduct an in-depth study on the potential closure of the programme. Costa Rica therefore believes it would be appropriate to maintain a "hold" on the final closure of the programme until there is full assurance that no endorsement is being given for payments for goods and services that have not been duly delivered in a timely manner and in accordance with the terms of the contracts signed, or for payments with surcharges or commissions.